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Informative Investigative Case Synopsis

FILE NO: 24-0147-C

SUBJECT MATTER: Alleged violation of City Nepotism policy and not properly addressing employee grievances or complaints, and retaliation.

STATUS: Final

INVESTIGATOR: Christopher Saavedra

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DISTRIBUTION:

**Honorable Mayor
President City Council
Chief Administrative Officer
City Councilors
Director Council Services
City Attorney
Department Director
Members, Accountability and Government Oversight Committee
File**

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EXECUTIVE SUMMARY

The City of Albuquerque Office of Inspector General (OIG) conducts investigations, inspections, evaluations, and reviews following the Association of Inspectors General (AIG) standards.

City Ordinance 2-17-2 states the “Inspector General's goals are to (1) Conduct investigations, inspections, evaluations, and reviews in an efficient, impartial, equitable, and objective manner; (2) Prevent and detect fraud, waste, and abuse in city activities including all city contracts and partnerships; (3) Carry out the activities of the Office of Inspector General through independence in both fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to ensure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.”

As defined in the Inspector General Ordinance § 2-17-3, “fraud is the knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Waste is the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the City. Abuse is the use of resources or exercise of authority contrary to rule or policy, or knowingly inconsistent with any established mission or objectives for the resource, or the position held by the person exercising the authority. Abuse does not necessarily involve fraud or illegal acts.”

On May 24, 2024, the OIG received an allegation stating that a City Department (D1) violated the City’s Nepotism policy by having two City Employees (E1 and E2) who are related and working in the same department. The complaint further alleges that E1 and E2 do not properly address employee grievances or complaints, and E1 and E2 retaliate against those with grievances or complaints.

The OIG determined that it was appropriate for the OIG to conduct a fact-finding investigation to substantiate or not substantiate the allegations of a violation of the City’s Nepotism policy and an abuse of position through retaliation of employees filing grievances or complaints.

The OIG’s findings and recommendations are intended to provide management with the identification of issues to enhance accountability and prevent future occurrences of fraud, waste, or abuse within the City’s operations or non-compliance with city policies.

Subsequent Matter:

- Non-compliance with the City’s Conflict of Interest policy §3-3-9 Nepotism prohibited.

Recommendations:

- Review the language in the City’s Conflict of Interest policy §3-3-9 to ensure it is consistent with the City’s application.
- Departments should comply with the City’s Conflict of Interest policy.
- Consider an independent review of division personnel actions.

ABBREVIATIONS

City:	City of Albuquerque
D1:	City Department
E1:	City Employee
E2:	City Employee
OIG:	Office of Inspector General

INTRODUCTION

The Office of Inspector General's (OIG) mission is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque (City) to safeguard and preserve public trust. Investigations, inspections, evaluations, and reviews are conducted following AIG Standards.

Complaint

Alleged violation by D1 of the City's Nepotism policy by employing City Employee (E1) and City Employee (E2) within the same department. E1 and E2 are not properly addressing employee grievances and complaints, resulting in retaliation.

SCOPE AND METHODOLOGY

Scope:

Review of potential conflicts of job duties related to alleged nepotism of E1 and E2.

The methodology consisted of:

- Assess complaint allegation
- Obtain and review evidence in support of the allegation
- Prepare an investigation work plan
- Review the Inspector General Ordinance, Article 17
- Review of City policy §3-3-9 Nepotism Prohibited
- Review of Organization Charts
- Review of Emails
- Review of HR Files
- Collect evidence or statements to corroborate the events
- Write report

This report was developed based on information from observations and the OIG's review of selected documentation and records.

INVESTIGATION

Allegations:

Allegation 1:

D1 violated the City's Nepotism policy by employing E1 and E2 within the same department.

Allegation 2:

E1 and E2 did not properly address employee grievances and complaints, resulting in retaliation of employees.

Authority:

Article 17: Inspector General Ordinance

§3-3-9 Nepotism Prohibited

Evidence:

Organization Charts

Emails

HR Files

Job Descriptions

Analysis:

In conducting our investigation, the OIG considered the above-noted evidence as a basis for our analysis.

The OIG reviewed the City Conflict of Interest policy §3-3-9 Nepotism Prohibited which states:

“No relative of a city employee, by blood or marriage, may be employed in any position with the city in which the employee may be able directly to supervise, control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed.”

The OIG's review revealed that the policy does not include any provision that would permit nepotism nor does it include a stated mechanism to mitigate the inherent perceptions when nepotism is allowed. The absence of additional language leads to the conclusion that nepotism is expressly prohibited.

While E1 and E2 do work for the same City Department, the OIG reviewed the Organization Chart for both E1 and E2, noting that there is no direct reporting line between the two. Additionally, E1 and E2 do not directly supervise other employees.

The OIG's review of the City's Human Resources (HR) files for E1 and E2 revealed that E2 was hired into their current position on August 23, 2022, and E1 was hired into their current position on May 5, 2023. E1's HR file contained an Interoffice Memorandum dated April 18, 2023, entitled "Relative Statement" which identified E1 as a relative of E2.

The OIG noted that the memo was sent by D1's Human Resources Department and was signed by the Division Manager. The memo included the following statement indicating an awareness of nepotism and the City's policy.

"The employee named above has been selected to work for the Division. The individuals will report to different managers and neither will be in a position where they will control or supervise the other or any other relatives that may also work for D1."

The OIG identified that the "Relative Statement" memo identified above does sufficiently address the first part of §3-3-9 Nepotism Prohibited by indicating that E1 nor E2 directly supervise one another. The memo does not address the issue of §3-3-9 Nepotism Prohibited, specifically the "control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed."

The OIG reviewed City emails of E1 and E2 and identified several instances where E1 and E2 were corresponding and seemingly working together to address personnel matters including but not limited to probation extensions, Letters of Instruction (LOIs), Records of Verbal Communication (ROVCs), and the submission of employee statements related to or resulting in disciplinary actions of division employees.

The evidence reflected that E1 and E2's duties are integral and require regular correspondence where E2 investigates and issues recommendations on personnel matters within the Division that employs E1.

The evidence obtained does reveal that E1 and E2 are employed in the same City department with different divisions. The evidence obtained does not substantiate that E1 and E2 were not properly addressing employee grievances and complaints, resulting in retaliation of employees. The OIG did identify some ambiguity between the language and the application of the City's Conflict of Interest policy prohibiting nepotism as noted in the subsequent matter.

Conclusion:

Allegation 1:

The allegation that the City's Nepotism policy was violated because E1 and E2 worked within the same department could not be substantiated since neither employee had supervisory control over the other. The OIG did identify a Subsequent Matter to this allegation which is detailed below.

Allegation 2:

The allegation of E1 and E2 were not properly addressing employee grievances and complaints, resulting in retaliation of employees was unsubstantiated.

Subsequent Matter:

The OIG's investigation revealed that the City's Conflict of Interest §3-3-9 prohibiting nepotism explicitly states that:

“No relative of a city employee, by blood or marriage, may be employed in any position with the city in which the employee may be able directly to supervise, control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed.”

Condition:

The plain reading of § 3-3-9 Nepotism prohibited appears to be in contradiction to its application by the department issuing a memo indicating that they are aware of the relationship but that neither of them supervises the other. The statement implies that the only criterion is that there is no direct supervision between related parties but seems to omit consideration of the language on whether one can influence the work, employment status, or affairs of the organizational unit in which the relative is employed. The OIG does find that having a relative employed in the Department's Human Resources Division with sensitive personnel responsibilities over the Division where their relative has responsibilities of Division Personnel Matters creates the appearance of potential influence resulting in a conflict of interest.

Criteria:

City Conflict of Interest policy §3-3-9 on nepotism.

Cause:

The City issued a memo acknowledging the relationship with a statement that there was no directed supervisory control over other relatives as a means to mitigate the City's policy prohibiting nepotism.

Effect:

The language in the City's Conflict of Interest policy §3-3-9 is more limiting than how the City is applying it which creates a contradiction between what is permitted and what occurs.

Recommendations:

The City should review the language in its Conflict of Interest policy §3-3-9 to ensure the language is appropriate and that the Departmental application is consistent with the intent of the policy.

The City should comply with the City's Conflict of Interest policy §3-3-9 as written.

The Department should consider having an independent review of the division's personnel actions going back to May 5, 2023, to ensure protocols were followed and actions taken were free from influence.

Management Response:

The relatives in this allegation do not directly supervise, control or influence the work or employment status of the other relative or the affairs of the organizational unit in which the relative is employed. The individual in human resources processes administrative paperwork in regards to the hiring process of the other section. The Hiring Manager has final decision on the hire recommendation. The HR PO ensures that all procedures have been followed and documentation has been properly filled out and processed.

I. Human Resources

The Human Resources Personnel Officer (HR PO) has been in consistent training since she was hired as Aviation Personnel Officer (transfer date of 9/2022) with the entirety of that training in the Hire, Temp Upgrade, Probation Processes, Union Contracts, Rules and Regs and Administrative Instructions pertaining to human resources for the City / hire, promotion, transfer, temp upgrades, Leave Without Pay, Probation extensions, and other similar actions. The City recently updated all hire processes in past two years to increase departmental training on these processes. The HR PO has been involved in the coordination of the hiring process with Hiring Managers and the review of hiring recommendation documentation as part of the hiring process. The HR PO reports to the Sr. Personnel/Labor Relations Officer to submit for final review and approval of her documentation. Any personnel issues brought to the HR PO are and were delivered to the Sr. Personnel/Labor Relations Officer. The HR PO does not have a direct line or dashed line of reporting oversight and does not review any issues or documentation that involves the Administrative position in the other section.

Aviation Human Resources works directly with each Division Manager, Associate Director or Deputy Director or those in the direct chain of command, when it pertains to personnel concerns. The Administrative position in the division is not in the division's chain of command.

Aviation Human Resources has maintained professionalism, confidentiality and integrity in their daily responsibilities, especially to our employees.

II. Division's Personnel Action

The HR PO does not have oversight and has not been involved in the administration personnel action process. At most, if the Sr. Personnel/Labor Relations Officer was out of office, the HR PO would document a personnel issue reported to her and forward to the Sr. Personnel/Labor Relations Officer for handling of the personnel issue. All personnel actions are assigned by the Sr. Personnel/Labor Relations Offices to individuals in a Management position who follow City policy, procedure, and protocol in handling personnel issues. The HR PO does not have the opportunity to influence any outcomes of personnel actions.